

Newaukum Water System, Inc.
P.O. Box 1287
Enumclaw, WA 98022-1287

January 3, 2015

To: Steven King, Executive Director
Washington Utilities and Transportation Commission, Water Division
PO Box 47250
1300 S. Evergreen Park Dr. SW
Olympia, WA 98504-7250

Subject: Submission of "Mitigation Request Document for assessed penalty UW-144112

Distributions required to: Gregory J. Kopta, Director, Administrative Law Division

The attached original and (4) copies of our Request for Mitigation of UW-144112 are attached.
Electronic copies will be sent on January 6, 2015.

This document is submitted by:



Maurice Kurtz
Chairman of the Board
Newaukum Water System Inc.
Phone: 253-939-5739
Email: myktz@yahoo.com
Home address:
38205 183rd Ave SE
Auburn, WA 98092

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION
PENALTY ASSESSMENT UW-144112

PLEASE NOTE: You must complete and sign this document, and send it to the Commission within 15 days after you receive the penalty assessment. Use additional paper if needed.

I have read and understand RCW 9A.72.020 (printed below), which states that making false statements under oath is a class B felony. I am over the age of 18, am competent to testify to the matters set forth below and I have personal knowledge of those matters. I hereby make, under oath, the following statements.

1. **Payment of penalty.** I admit that the violation occurred and enclose \$1,000 in payment of the penalty.
2. **Request for a hearing.** I believe that the alleged violation did not occur for the reasons I describe below, and I request a hearing based on those reasons for a decision by an administrative law judge:
3. **Application for mitigation.** I admit the violation, but I believe that the penalty should be reduced for the reasons set out below: *See attachment 1 attached.*
- a) I ask for a hearing to present evidence on the information I provide above to an administrative law judge for a decision
- OR b) I ask for a Commission decision based solely on the information I provide above.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing, including information I have presented on any attachments, is true and correct.

Dated: 01/3/2015 [month/day/year], at Auburn, WA [city, state]

Newaukum Water System Inc
Name of Respondent (company) – please print

[Signature]
Signature of Applicant
Chairman of the Board

RCW 9A.72.020:

“Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law. (2) Knowledge of the materiality of the statement is not an element of this crime, and the actor’s mistaken belief that his statement was not material is not a defense to a prosecution under this section. (3) Perjury in the first degree is a class B felony.”

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Attachment I

Subject: Mitigation request for Assessment UW-144112

Newaukum Water System (NWS) Board of Directors makes the following statements regarding your levied fine and our application for mitigation:

- 1) The current Board of Directors (BOD) inherited the operation of a financially stressed nonprofit corporation that required an immediate increase of income to continue the operation of the system and pay the bills. At the first annual meeting of the newly managed corporation, the BOD submitted a budget to the members that would allow NWS to continue operations on a sound financial basis. The budget that was approved included raising the rate to \$75 per month in order to meet annual budgeted direct expenses of \$12,956 plus an annual total of \$7,596 in corporate debt. The UTC staff was provided a copy of the budget and notified of the increased rate. Submission of NWS budget to staff was basically ignored except for an email received on 9/29/2014 that stated our yearly operating base should only be \$7,056 without explaining how they arrived at this amount compared to our budget of \$12,956. The only specific expense identified as too large was the budgeted \$700 per year for water testing because the most expensive tests would only occur every 3 years; however, this is year 3 of the cycle and we have a current outstanding bill of \$490 in hand to cover Department of Health (DOH) herbicide and copper /lead testing requirements. Our current checking account balance is only \$691.11 as of this writing. We must have funds before the fact, not after the bills arrive.
- 2) A rate case was submitted on behalf of NWS by Northwest Water Systems in conjunction with UW-132281. Northwest was recommended to NWS by the UTC staff. NWS was advised by a Northwest Water Systems representative that the rules used by staff to evaluate a rate case would not result in a rate increase being approved above the previous \$35/month rate. This rate case and associated correspondence cost NWS \$5,100, which is a large portion of our current debt. Since closure of UW-132281 the UTC staff has continued to argue that the \$55 rate is too high. As evidenced by the filing of UW-143181, the staff still thinks that NWS is accumulating too much money, even while we continue to operate on a hand-to-mouth basis. The staff has been furnished copies of our bank account documents and a recent financial statement.
- 3) The rules the staff uses for evaluating and approving rates has little to do with a company's cost of operation, because it only allows for using past history of expenditures for determining rates. The staff states that they will allow future costs only if there are firm quotations from a vendor to substantiate the cost. This ignores the fact

that much of NWS's equipment is 45-50 years old and that there is no reserve fund to deal with breakdowns and replacements. Such expenses cannot be identified in advance.

- 4) On 10/23/2014, Mr. Ward promised to help with an expedited rate case that the BOD understood would support the \$75/month rate. Instead, he just sent us a checklist for the same old process that would not allow for any rate increases.
- 5) NWS has submitted a motion under UW-143330 for release from the Commission's control, based on a reasonable interpretation of WAC 480-110-255. The outcome of this motion is pending.
- 6) Payment of the \$1000 fine would preclude our ability to pay our major expenses for the next two months, thus risking default on some obligations. As an elected BOD responsible to our membership, we will not agree to reduce services or default on our obligations.
- 7) The fine is also unjust because the Commission staff refuses to apply a real-world analysis to determine the rate that NWS needs in order to maintain and operate its water system. NWS is also claiming discrimination against our nonprofit that already has financial difficulties. Our rate should be determined by our membership approved budget. RCW 57.08.081 (applicable to water districts) contains a far more realistic approach to setting rates: "*Rates shall be established as deemed proper by the commissioners and as fixed by resolution and shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for efficient and proper operation of the system.*" The UTC staff's position appears to be that NWS should not receive revenues sufficient for maintenance and operation of the water system.